

Louis M. Marlin, Esq. [State Bar No. 054053]

Stanley D. Saltzman, Esq. [State Bar No. 090058]

MARLIN & SALTZMAN

3200 El Camino Real, Suite 100

Irvine, California 92602

Telephone: (714) 669-4900

Facsimile: (714) 669-4750

[Louis.Marlin@MarlinSaltzman.com](mailto:Louis.Marlin@MarlinSaltzman.com) / [SSaltzman@MarlinSaltzman.com](mailto:SSaltzman@MarlinSaltzman.com)

Attorneys for Plaintiffs, individually and on behalf of all others similarly situated

Lynne C. Hermle, Esq. [State Bar No. 99779]

Michael A. Aparicio, Esq. [State Bar No. 206300]

Jessica R. Perry, Esq. [State Bar No. 209321]

Amira B. Day, Esq. [State Bar No. 239045]

ORRICK, HERRINGTON & SUTCLIFFE LLP

1000 Marsh Road

Menlo Park, California 94025

Telephone: (650) 614-7400

Facsimile: (650) 614-7401

[lchermle@orrick.com](mailto:lchermle@orrick.com) / [maparicio@orrick.com](mailto:maparicio@orrick.com)

[jperry@orrick.com](mailto:jperry@orrick.com) / [aday@orrick.com](mailto:aday@orrick.com)

Attorneys for Defendant

WAL-MART STORES, INC.

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE NORTHERN DISTRICT OF CALIFORNIA**

In Re WAL-MART STORES, INC.  
WAGE AND HOUR LITIGATION

] Case No.: C 06 02069 SBA

]

] **CLASS ACTION**

]

This Document Relates To:

] **STIPULATION AND ORDER RE:**

Case Nos.

] **FILING OF FIRST AMENDED**

C 06 02069 SBA (Smith) and

]

] **COMPLAINT**

CV 06 05411 SBA (Ballard)

]

]

**ADDITIONAL PLAINTIFFS' COUNSEL**

Arnold W. Schwartz, Esq. [State Bar No. 063436]

Marcus J. Bradley, Esq. [State Bar No. 174156]

**SCHWARTZ, DANIELS & BRADLEY**

29229 Canwood Street, Suite 208

Agoura Hills, California 91301

Telephone: (310) 478-5838

Facsimile: (310) 478-1232

[Arnold.Schwartz@SchwartzDanielsBradley.com](mailto:Arnold.Schwartz@SchwartzDanielsBradley.com)

[Marcus.Bradley@SchwartzDanielsBradley.com](mailto:Marcus.Bradley@SchwartzDanielsBradley.com)

Peter M. Hart, Esq. [State Bar No. 198691]

**LAW OFFICES OF PETER M. HART**

13952 Bora Bora Way, F-320

Marina Del Rey, California 90292

Telephone: (310) 478-5789

Facsimile: (310) 561-6441

[HartPeter@msn.com](mailto:HartPeter@msn.com)

A.E. "Bud" Bailey, Pro Hac Vice [OSB No. 87157; WSB No. 33917]

J. Dana Pinney, Pro Hac Vice [OSB No. 75308; WSB No. 33919; DC No. 473833]

**MEMBERS OF BAILEY PINNEY PC**

1498 S.E. Tech Center Place, Suite 290

Vancouver, Washington 98683

Telephone: (360) 567-2551

Facsimile: (360) 567-3331

[BBailey@wagelawyer.com](mailto:BBailey@wagelawyer.com)

[JDPinney@wagelawyer.com](mailto:JDPinney@wagelawyer.com)

Bonnie R. MacFarlane, Esq. [State Bar No. 161526]

**LAW OFFICES OF BONNIE R. MAC FARLANE**

720 Howe Ave, Suite 113

Sacramento, California 95825

Telephone: (800) 230-5528

Facsimile: (800) 230-5866

[BMacfarlane@wagelawyer.com](mailto:BMacfarlane@wagelawyer.com)

1 Plaintiffs BARRY SMITH, MICHAEL WIGGINS, DANTON BALLARD, and  
2 NATHAN LYONS, individually and on behalf of all others similarly situated  
3 (hereinafter collectively referred to as the “Plaintiffs”) and Defendant WAL-MART  
4 STORES, INC. (“Defendant”) (collectively “the parties”), through their respective  
5 counsel, hereby stipulate as follows:

6 WHEREAS, the action entitled *Barry Smith and Michael Wiggins v. Wal-Mart*  
7 *Stores, Inc.*, U.S.D.C. Case No. CV-06 02069 SBA (“Smith Action”) was commenced  
8 in this District on March 20, 2006, with the filing of the original Complaint (C-06  
9 05411 JSW);

10 WHEREAS, the action entitled *Danton Ballard and Nathan Lyons, etc. v. Wal-*  
11 *Mart Stores, Inc.*, U.S.D.C. Case No. CV 06 3790 RSWL, (“Ballard Action”) was  
12 filed on May 17, 2006, in the Superior Court for the State of California, County of Los  
13 Angeles;

14 WHEREAS, on June 16, 2006, Wal-Mart removed the Ballard action to the  
15 United States District Court, Central District of California;

16 WHEREAS, the parties stipulated to the transfer of venue of the Ballard action  
17 to this Court pursuant to 28 U.S.C. §1404(a) on August 7, 2006;

18 WHEREAS, on September 28, 2006, the Court ordered the Smith Action and  
19 the Ballard Action related pursuant to Civil Local Rule 3-12;

20 WHEREAS, on January 9, 2007, the Court ordered the Smith Action and the  
21 Ballard Action consolidated pursuant to *Federal Rules of Civil Procedure* 42(a);

22 WHEREAS, on January 9, 2007, the Plaintiffs filed a Consolidated Class  
23 Action Complaint;

24 WHEREAS, on February 8, 2007, Defendant filed a Motion to Dismiss the  
25 Consolidated Class Action Complaint pursuant to *Federal Rules of Civil Procedure*  
26 12(b)(6) and a Motion to Strike pursuant to *Federal Rules of Civil Procedure* 12(f)  
27 calendared for hearing on March 27, 2007;

28 ///

1 WHEREAS, in the interests of efficiency, and to avoid successive Motions to  
2 Dismiss and Motions to Strike, the Plaintiffs wish to file a First Amended  
3 Consolidated Complaint.

4 IT IS HEREBY STIPULATED BY THE PARTIES AS FOLLOWS:

5 1. Leave to file Plaintiffs' Proposed First amended Consolidated Class  
6 Action Complaint, attached hereto as Exhibit A, should be granted;

7 2. Plaintiffs shall file the First Amended Consolidated Class Action  
8 Complaint no later than 10 days from the entry of this Order.

9 3. Conditioned upon the Court granting such leave and the filing of the First  
10 Amended Consolidated Class Action Complaint, Defendant's Motion to Dismiss the  
11 Consolidated Class Action Complaint pursuant to *Federal Rules of Civil Procedure*  
12 12(b)(6) and Motion to Strike pursuant to *Federal Rules of Civil Procedure* 12(f),  
13 calendared for March 27, 2007, are withdrawn; provided, however, that if the Court  
14 has not approved this Stipulation by March 16, 2007, Defendant will re-notice the  
15 motions to give Plaintiffs the time to file an opposition that is provided for in the  
16 Local Rules;

17 4. Defendant's withdrawal of the Motion to Dismiss and Motion to Strike is  
18 without prejudice to Defendant's right to file new motions in response to Plaintiffs'  
19 First Amended Consolidated Complaint; and

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

5. Defendant shall respond to the First Amended Consolidated Class Action Complaint within 20 days of its filing.

DATED: March 7, 2007

MARLIN & SALTZMAN  
SCHWARTZ, DANIELS & BRADLEY  
LAW OFFICES OF PETER M. HART  
BAILEY PINNEY, PC  
LAW OFFICES OF BONNIE R. MAC FARLANE

/ S /

By: \_\_\_\_\_  
MARCUS J. BRADLEY  
Attorneys for Plaintiffs

DATED: March 7, 2007

ORRICK, HERRINGTON & SUTCLIFFE LLP

/ S /

By: \_\_\_\_\_  
LYNNE C. HERMLE  
MICHAEL A. APARICIO  
JESSICA R. PERRY  
AMIRA B. DAY  
Attorneys for Defendant

**ORDER**

The foregoing stipulation having been entered, and good cause appearing,  
IT IS SO ORDERED.

DATED: 3/19/07

  
\_\_\_\_\_  
HONORABLE SAUNDRA B. ARMSTRONG  
UNITED STATES DISTRICT COURT JUDGE